



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,036	12/27/2005	Hidehiro Uchiumi	740675-61	5999
22204	7590	01/31/2008		
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			EXAMINER MULLINS, BURTON S	
			ART UNIT 2834	PAPER NUMBER
			MAIL DATE 01/31/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,036

Applicant(s)

UCHIUMI ET AL.

Examiner

Burton S. Mullins

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,30,35 and 36 is/are rejected.
- 7) ☒ Claim(s) 31-34 and 37-40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt of the certified English translation of the foreign application to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference is acknowledged.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 23 July 2007 and 27 November 2007 have been considered by the examiner. The duplicate foreign references on the latter and the incorrect 'Ibata et al.' reference on the former have been crossed out.

Drawings

3. The drawings were received on 27 November 2007. These drawings are approved.

Specification

4. The disclosure is objected to because of the following informalities: Reference numbers are lacking for numerous claimed elements (see paragraph 8 below) and the words used for elements in the claims are different from those used in the specification. For instance, the "end cap" of claim 32 presumably refers to the "terminal blade mount" 5 of the specification. The term "end cap" is significantly different from "terminal blade mount" and implies a different structure. Further, terminology used in claims 32 & 38, e.g. "end cap", "legs" and

“leg connecting part” & “attachment surfaces” should have numbers in the drawings and be referred to in the specification. Appropriate correction is required. In the response filed 27 November 2007, applicant states on p.12:4-8 that the claims have been amended to be commensurate with the specification; however, no amendments to the claims were made.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 29 and 35 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Sei et al. (US 6,542,381). Sei teaches a vibration motor comprised of a motor body 3 (Fig.1), a motor shaft 4 projecting from the motor body (Fig.2), an eccentric weight 5 attached to the motor shaft 4 (Fig.1), and an attaching means (shock absorber/motor-case) 8 for supporting said motor body 3 in a horizontal prone posture at one surface of a board (base/shield case) 20/22 (Fig.1; see also c.4:35-37 & c.4:48-53 teaching that shock absorber 8 attaches the vibrator by means of a force-fit into holder 26, so that the motor 3 is in a horizontal prone posture at one surface of board 20/22), wherein the attaching means has a pair of attachment faces (not numbered, ‘tabs’ extending from either side of shock absorber/motor-case 8) straddling said motor shaft 4 and

extending in parallel with the same at the two sides of a motor case 8 (Fig. 1; c. 4:35-37&48-53) and a plane including said pair of attachment faces intersects with a circular orbit of the outermost point of the eccentric weight 5 at two points (i.e., a plane passing through 'tabs' inherently intersects with a circular orbit of the outermost point of eccentric 5 at two points on the plane since the eccentric 5 including its outermost point rotates through the plane, perpendicularly to it, as seen in Figs. 1&2, and thus intersects with the plane at two points).

FIG. 1

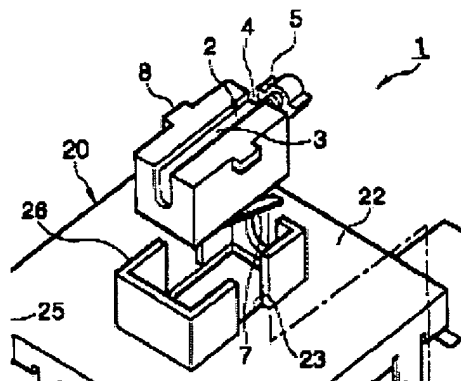
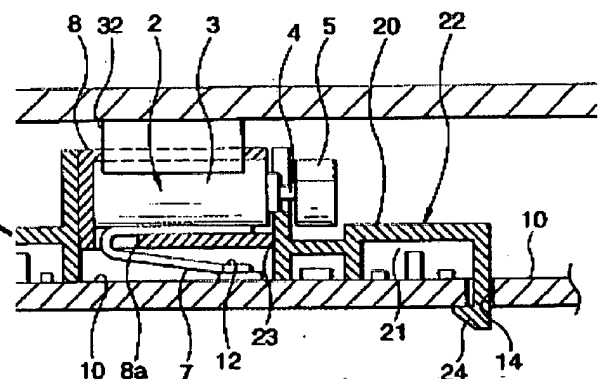


FIG. 2



Regarding claim 35, the attachment faces (tabs or shock absorber/motor case 8) are shaped such that they can be considered "rails" (Fig. 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sei et al. In Fig.1, Sei does not specify that the pair of attachment faces/tabs are positioned closer to the eccentric weight 5 than to a center of gravity of said vibration motor. However, merely repositioning the faces 8 would have been obvious since it has been held that shifting location of parts involves routine skill. In re Japikse, 86 USPQ 70.

Allowable Subject Matter

9. Claims 31-34 and 35-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for allowability of claims 31-33 and 37-39 were given in the previous action.

Regarding claims 34 and 40, Sei's attachment means (shock absorber/motor case) 8 comprises attachment faces/tabs extending from both sides at the top thereof (not numbered, Fig.1). With this in mind, it cannot be deduced from Fig.2 that the attachment faces/tabs "[affix] to one surface of said board at the sides of said cutaway space or said open space, and

said vibration motor is mounted with at least said motor body in a state sunken in said cutaway space or said open space” since it appears that the attachment faces/tabs would be located some distance above the surface of the circuit board (base/shield case) 20/22.

Response to Arguments

10. Applicant’s arguments filed 27 November 2007 have been fully considered but are not wholly persuasive.

11. Applicant’s arguments concerning the rejection of claims 30-33 and 37-40 under 35 USC 112, 1st and 2nd paragraphs, are convincing and therefore these rejections have been withdrawn.

12. Regarding the rejection over Sei et al. (US 6,542,381), the examiner notes that the “shock absorber” 8 comprises a ‘housing’ or ‘case’ as applicant argues; however, it also comprises ‘tabs’ (applicant’s term) which extend from its side. Although not numbered, these ‘tabs’ are clearly shown in Fig.1 (they are also shown in Prior Art Fig.3A as part of the “shock absorber” 51). Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. *In re Mraz*, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). The ‘tabs’ comprise “attachment means” since they are part of the “shock absorber” 8 disclosed as attaching the vibrator by means of a force-fit into holder 26, so that the motor 3 is in a horizontal prone posture at one surface of board 20/22 (c.4:35-37). Further, as can be readily seen in Fig.1, the tabs slide into respective slots (not numbered) on either side of holder 26 in which the vibrator is “forced” and “held” (c.4:35-37). Sei teaches that the walls of the holder are formed in

a box shape and “hold the vibrator forced into the holder in such a manner that the vibrator does not move up and down and left and right” (c.4:48-53). Thus, the “shock absorber” 8 and the ‘tabs’ forming a portion thereof comprise “attachment means”.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Burton S. Mullins whose telephone number is 571-272-2029. The examiner can normally be reached on Monday-Friday, 9 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Application/Control Number:
10/539,036
Art Unit: 2834

Page 6

A handwritten signature in black ink, appearing to read "B. Mullins", with a stylized flourish at the end.

Burton S. Mullins
Primary Examiner
Art Unit 2834

21 January 2008
bsm